

Power of Vision

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Tuesday, August 25, 2009

The Honorable James D Boyd
The Honorable Karen Douglas
Siting Project Committee
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

DOCKET
07-AFC-6

DATE	AUG 25 2009
RECD.	AUG 26 2009

Petition to Compel Response to Data Requests

Dear Commissioner Douglas & Boyd:

On June 29, 2009 Power of Vision sent you our response to CECP's Objections to providing us with hourly operating data on Encicna Power Station Units 1, 2, & 3 from years 2002 through 2008 inclusive (see attached copy of June 29, 2009 letter).

We cannot find where our June 29th letter was docketed, nor have we had a response to our letter from the Commission. We continue to believe that the issue is important and could lead to a re-evaluation of the NOx emission values permitted for this project. We look forward to the Commission's compelling the applicant to comply with our request for data in a timely fashion, so as not to further delay the application proceedings.

Sincerely,

Arnold Roe, PhD
Julie Baker
Power of Vision

Attachment

Hardcopy to follow by U.S. Mail

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Monday, June 29, 2009

The Honorable James D Boyd
The Honorable Karen Douglas
Siting Project Committee
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Application for Certification for the)
Carlsbad Energy Center Project) Docket No. 07-AFC-6

Petition to Compel Response to Data Requests

Dear Commissioner Douglas:

On May 27, 2009 Power of Vision (POV), an intervener in the above-referenced Proceeding, requested that the applicant, Carlsbad Energy Center Project ("CECP") make available for inspection the original documents wherein the applicant records hourly data on Encina Power Station units 1-5 relating to times of operation, fuel consumption and NOx emissions for years 2002 through 2008 inclusive. On June 22, 2009 the CECP informed Power of Vision that "Applicant has no further intent to respond to the POV's data requests at this time."

CECP Objection

The CECP objects to providing the requested information and offers three separate reasons for not responding to the data request: (1) the requests are untimely, (2) the information requested exceeds the scope of the CECP application and will not lead to the finding of relevant information, and (3) the documents that POV wishes to examine are numerous in volume and therefore is an unduly burdensome request.

POV Response

POV believes the objections of the CECP are totally without merit and should be over-ruled.

(1) Untimely.

- a. Information on hours of operation of Encina Power Station units has only recently been made available to us, first in the applicant's Response to Center for Biological Diversity's Data Request A1 through G1, dated January 2009, but not docketed until June 2, 2009, and through applicant's letter to the CEC dated April 20, 2009, in which their consultant, Sierra Research, provided data which had been transcribed from actual plant operating hours.
- b. The 180-day limit on data requests is subject to a Commission

determination of good cause. POV believes that our desire to independently evaluate the information that the applicant has provided to both the CEC and the San Diego Air Pollution Control District (SDAPCD), which includes data dating back to the year 2002, and on which the applicant has based its calculations of air emissions and ERCs, is “good cause”, particularly in light of the number of errors and inconsistencies in the applicant’s “transcribed” data. The applicant, at the bottom of page 3 of their June 19, 2009 letter to POV, admits to errors in their reporting of hours of operation.

(2) Information Exceeds Scope of Application

Independent verification of crucial emissions and other data provided in the AFC and subsequent applicant’s documents does not exceed the scope of the application. Major decisions on factors that limit the operation of the CECP are based on the applicant’s reported emissions data, and the applicant’s admitted errors in transcribing and reporting the actual Encina Power Station hourly logs indicates that an independent review of these logs could certainly lead to the finding of relevant new information. We are not requesting the applicant to do any analysis. We simply want access to data that the applicant has on hand so that we can perform our own analysis.

(3) Burdensome Request

POV recognizes that the plant logs that it wishes to see are voluminous and that it will take considerable effort on our part to review the data, but we are ready to do so at a place convenient to the applicant and POV, such as the power station where the data originated. The applicant did manage to have their consultant, Sierra Research, view this data, and 2002 to 2006 hourly emissions data has also been given to the SDAPCD. We also suspect that the Encina Power Station’s Title V operating permit requires such information to be made available for inspection.

POV therefore requests the Commission to direct the applicant to respond to POV’s Data Request 1 in a timely manner. POV is prepared to participate in oral argument on this issue if the Assigned Committee determines that a hearing is necessary.

Sincerely,

Julie Baker
Arnold Roe, Ph.D.
Power of Vision

DECLARATION OF SERVICE

I, Julie Baker, declare that on June 29, 2009 , I deposited copies of the attached Power of Vision letter to the CEC Siting Commissioners concerning a Petition to Compel Data Request in United States mail at Carlsbad, CA with first-class postage thereon fully prepaid and addressed.

And

Transmission via electronic mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service list above.

I declare under penalty of perjury that the foregoing is true and correct.

Julie Baker

June 29, 2009

**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV**

**APPLICATION FOR CERTIFICATION Docket No. 07-AFC-6
FOR THE CARLSBAD ENERGY Center Project
PROOF OF SERVICE (Revised 5/11/2009)**

Applicant

David Lloyd

***George Piantka, PE.**

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Center for Biological Diversity

c/o William B. Rostov

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Power of Vision

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